IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.687 OF 1996
IN
S.C.SUIT NO.811 OF 1979

The National Small Scale
Industries Corpn. Ltd. Appellants

versus

M/s.Dalal Enterprises & ors. Respondents

Ms.Usha Tiwari for Appellant.

None for Respondent.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 19th October 2005

PC :

1. Heard learned counsel for the Appellant. None appears for Respondents inspite repeated attempts made by the Appellant to serve. Finally, the respondents have been served by publishing a public notice in the news papers. Even then nobody appears on behalf of Respondents. Affidavit of service has been filed.

2. By this Appeal, the Appellant The National

Small Scale Industries Corporation Limited is challenging the Judgement and Decree passed by the learned Single Judge in Suit No.811 of 1979 dated 20th August 1993 only with regard to issues 4 and 5. As far as issue no.4 is concerned, the dispute is that the learned Judge while computing the final figure of decree of Rs.2,19,517=72 Ps. has committed an apparent error in the sense the learned Judge had deducted a sum of Rs.21,414=19 Ps. twice over, whereas, it ought to have been deducted only once, which has been the amount paid by the respondents by way of earnest money. A perusal of the judgement at the running page no. 148 of the paper book shows that the learned Judge has deducted the said amount twice over. As such, the Appellant is entitled to Rs.21,414=19 Ps..

3. Accordingly, as far as issue no.4 is concerned, we are inclined to grant the Appellant above said additional amount of Rs.21,414=19 Ps. along with interest @ 12% p.a. from the date of suit till payment.

4. As far as issue no.5 is concerned wherein the appellant is claiming a sum of Rs.7,000/- per month by way of compensation for the alleged

wrongful use of the suit machinery. With regard to the same, there is no dispute that the Appellant did not lead any evidence whatsoever to substantiate the said claim of Rs.7,000/-. In these circumstances, with regard to the said issue, we do not find any apparent error committed by the learned Single Judge.

5. Under the aforesaid circumstances, the appeal is allowed only to the above extent. Office to draw up the decree accordingly including costs. Costs quantified at Rs.5,000/- in this Appeal.

6. Issuance of certified copy expedited.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)